

July 14, 2000

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND RECOMMENDATION TO THE METROPOLITAN KING COUNTY COUNCIL

SUBJECT: Department of Development and Environmental Services File No. **V-2407**
Proposed Ordinance No. **2000-0352**

RAPHEL ANDERSON
Petition for Road Vacation

Location: A portion of South 131st Street located in the Skyway area
of King County

Petitioner: **Raphel Anderson**
9711 – 51st Avenue South
Seattle, WA 98118
Telephone: (206) 725-4651

SUMMARY OF RECOMMENDATIONS:

Department's Preliminary:	Approve road vacation
Department's Final:	Approve road vacation
Examiner:	Approve road vacation

DEPARTMENT'S REPORT:

The Department of Transportation's written report to the King County Hearing Examiner for Item No. V-2407 was received by the Examiner on June 22, 2000.

PUBLIC HEARING:

After reviewing the Department of Transportation's Report and examining available information on file with the petition, the Examiner conducted a public hearing on the subject as follows:

The hearing on Item No. V-2407 was opened by the Examiner at 11:30 a.m., July 11, 2000, in the

Fifth Floor Conference Room of the Union Bank of California Building, 900 – 4th Avenue, Seattle, Washington, and closed at 12:20 p.m. Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & RECOMMENDATION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. **General Information.**

Road name and location:	A portion of South 131 st Street located in the Skyway area.
Right of way classification:	“B” Class
Area:	a. First petition: 1,669 square feet b. Recommended: 1,161 square feet
Compensation:	a. \$5,795.60 for area of first petition b. \$4,031.57 for area recommended by Department

2. **Department Report Adopted (in part).** Except as provided below, the Examiner adopts and incorporates herein by this reference the facts set forth in the Department of Transportation's report to the King County Hearing Examiner for the July 11, 2000 public hearing and the statement of facts contained in Proposed Ordinance No. 2000-0352. The Department's report will be attached to those copies of this report and recommendation that are submitted to the Metropolitan King County Council.

3. **Maps.** Maps showing the vicinity of the proposed vacation and the specific area to be vacated are Attachments 1 and 2 to this Report and Recommendation.

4. **Merits of Request.** As noted in Finding No. 1, above, the area first petitioned by Raphel Anderson (“Petitioner”) comprised 508 feet more than recommended by the Road Services Division of the Department of Transportation (“Department” or “KCDOT”). The difference arises because the Department recommends deleting the southernmost 6 feet from the proposed vacation area. The Department suggests that this 6-foot wide strip of right-of-way might be required for future widening of South 131st Street; or, at the very least, some slope easements may be required for extraordinary maintenance. The Department's recommendation to the Examiner and to the Council is based upon comments provided by the development review unit of the King County Road Maintenance Section of the Road Services Division. The following additional findings are relevant:

- a. The Department sent copies of the petition to 13 reviewing agencies. Only the Traffic Engineering Section of KCDOT objected to the vacation as proposed, recommending that King County retain the southerly 6 feet of the proposed vacation area for “possible future reconstruction of South 131st Street.”

- b. Regarding this issue, KCDOT is a “house divided.” Its own Comprehensive Long Range Planning Section concluded that this petition “will not impact any proposed transportation plans or projects in the area.”
 - c. The Department of Development and Environmental Services (“DDES”), an agency charged with considering (among other things) land development trends, indicates that “the alignment of South 131st Street to the south of this parcel appears to make this right-of-way unnecessary for future neighborhood circulation needs. Therefore, DDES has no objection to the referenced road vacation request.”
 - d. The King County Capital Improvement Plan (CIP) contains no plans to improve South 131st Street. The CIP is a 6-year plan that is updated annually.
 - e. The Transportation Needs Report (TNR) indicates no need for 131st Avenue South expansion in the foreseeable future (19 years).
 - f. The hearing record contains no suggestion of traffic patterns that would bring to bear the pressures that typically necessitate street widening.
 - g. The neighborhood is built out. In the general vicinity of the subject property only the subject property itself remains unbuilt upon.
 - h. Though constructed to an older, lesser road section standard, South 131st Street is nonetheless developed to full section, including sidewalk. That portion of the sidewalk abutting the subject property is badly deteriorated. However, the Petitioner will be required to reconstruct that segment of walkway when he builds upon the subject property.
 - i. Seattle City Light does not have any electrical facilities located within this portion of South 131st Street.
 - j. Bryn Mawr-Lakeridge (Skyway) Water and Sewer District does not object and requires no easement. Likewise, AT & T Cable Service, Metro, KCDNR (Water and Land Resources).
 - k. Property Services Division recommends that the vacation be approved.
 - l. US West releases its easement on the petition area. See Attachment No. 2, Exhibit No. 1.
5. Vacation of the subject right-of-way would have no adverse effect on the provision of fire and emergency services to the subject property or surrounding area.

CONCLUSIONS:

1. The portion of 131st Avenue South right-of-way contained in Raphel Anderson’s original

petition is useless as part of the King County Road System. The preponderance of evidence, as described in Finding No. 4, above, supports the petition as first submitted. The public will benefit from its vacation. While the Road Maintenance Section argues that the 6-foot-wide segment at controversy might be needed for future redevelopment of the street, no other agency of King County charged with long range planning, transportation and land use evaluation supports the notion that such street redevelopment/widening would actually occur. Given the preponderance of evidence, the notion that the disputed six-foot-wide strip might be needed in the future must be regarded as hypothetical or speculative.

2. For the reasons indicated in Conclusion No. 1, preceding, this report recommends approval of the entire area first petitioned by Raphel Anderson. However, Petitioner Anderson must deposit an additional \$1,764.03 to compensate King County before vacation of the entire originally petitioned area can be completed.
3. The Notice of Hearing on the report of the Department of Transportation was given as required by law, and a hearing on the report was conducted by the King County Hearing Examiner on behalf of the King County Council.
4. The compensation required by law to be paid as a condition precedent to the vacation of this road has been deposited with King County, and the easements, if any, necessary for the construction, repair and maintenance of public utilities and services have been provided in form satisfactory to the affected public utilities.

RECOMMENDATION:

APPROVE proposed SUBSTITUTE Ordinance No. 2000-0352 to vacate the subject road. This action will restore the Petitioner's original 1,669 square feet (508 square feet more than recommended by the Department), and therefore requires compensation at 75 percent of assessed value for "B" Class right-of-way, resulting in a compensation requirement of \$5,795.60 (\$1,764.03 more than recommended by the Department).

RECOMMENDED this 14th day of July, 2000.

R. S. Titus, Deputy
King County Hearing Examiner

TRANSMITTED this 14th day of July, 2000, to the following parties and interested persons:

AT & T Cable Services
Steve Botts
Don Ding
Thomas Eksten
John F. Phillips

Greg Borba
Tommy Burdette
Dave Preugschat
Lydia Reynolds
Dennis Gorley

Roderick E. Matsuno
Ronald J. Paananen
Joe Wilson
Charlie Sundberg
Faith Roland

Raphel Anderson

Kristen Langley

NOTICE OF RIGHT TO APPEAL
AND ADDITIONAL ACTION REQUIRED

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$125.00 (check payable to King County Office of Finance) on or before July 28, 2000. If a notice of appeal is filed, the original and 6 copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council on or before August 4, 2000. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within 14 days calendar days of the date of this report, or if a written appeal statement and argument are not filed within 21 calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council on a recommendation of the Examiner shall be final and conclusive unless within twenty-one (21) days from the date of the action an aggrieved party or person applies for a writ of certiorari from the Superior Court in and for the County of King, State of Washington, for the purpose of review of the action taken.

MINUTES OF THE JULY 11, 2000 PUBLIC HEARING ON KING COUNTY DEPARTMENT OF
TRANSPORTATION FILE NO. V-2407 – RAPHEL ANDERSON:

R. S. Titus was the Hearing Examiner in this matter. Participating in the hearing and representing the Department were Tommy Burdette and Kristen Langley. Participating in the hearing and representing the Petitioner was Raphel Anderson. There were no other participants in this hearing.

The following exhibits were offered and entered into the record:

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| Exhibit No. 1 | Staff report to the Hearing Examiner, dated June 22, 2000, with 13 attachments |
| Exhibit No. 2 | Petition transmittal letter dated August 17, 1999 to KCDOT from Clerk of the Council |
| Exhibit No. 3 | Petition for Vacation of a County Road with legal description of the proposed vacation area attached |
| Exhibit No. 4 | Copies of check Number 842 for non-refundable deposit |
| Exhibit No. 5 | Map depicting vacation area |
| Exhibit No. 6 | Vicinity map |
| Exhibit No. 7 | Copy of Quit Claim Deed from W. E. Campbell to King County recorded in Volume 1151 of Deeds, Page 105, records of King County, Washington |
| Exhibit No. 8 | Letter dated August 27, 1999 from Roads Division informing the petition of the recommendation made by Traffic Engineering Section |

- Exhibit No. 9 Letter dated March 16, 2000 from Roads Division informing the petitioner of the recommendation made by Traffic Engineering Section
- Exhibit No. 10 Copy of revised legal description with revised survey map attached
- Exhibit No. 11 Road Vacation Worksheet V-2407.XLS dated April 5, 2000
- Exhibit No. 12 Letter dated April 11, 2000 from the Department of Transportation, Road Services Division, to the Clerk of the King County Council
- Exhibit No. 13 Letter dated April 13, 2000 to petitioner from Roads Division identifying amount of compensation
- Exhibit No. 14 Copy of Check Number 1580 for payment of compensation
- Exhibit No. 15 Letter dated May 31, 2000 from King County Executive to Councilchair Peter von Reichbauer, with proposed ordinance attached
- Exhibit No. 16 Proposed Ordinance 2000-0352
- Exhibit No. 17 Notice of Hearing with map attached
- Exhibit No. 18 Affidavit of Posting, with Notice of Hearing and map attached
- Exhibit No. 19 Affidavit of Publication
- Exhibit No. 20 Letter to Raphel Anderson from Tommy Burdette, dated June 22, 2000
- Exhibit No. 21 Letter to Hearing Examiner Smith from Raphel Anderson, dated July 6, 2000
- Exhibit No. 22 Map showing vacation area, highlighted in yellow
- Exhibit No. 23 Four Polaroid photographs submitted by Mr. Anderson, depicting South 101st Street, Anderson property and abutting sidewalk.
- Exhibit No. 24 Map depicting original petition area highlighted in green and orange, representing the King County Department of Transportation recommended portion.

RST:sjelvam
Attachments
vacations/V-2407 RPT